IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3103 OF 2004

Vivek Ramdas Gaval
Residing at Room No.D/11
University Staff Quarters
C.S.T.Road, Vidyanagari,
Santacruz(East), Mumbai-400 058. ..Petitioner

Vs.

1.University of Mumbai
Through the Registrar
University of Mumbai
Mumbai-400 032.

2.University Institute of Chemical
Technology
Through its Director
University of Mumbai
Matunga, Mumbai 400 019.

3.University Grants Commission
Bahadur Shah Zafar Marg
New Delhi 110 002.

4.State of Maharashtra
Through its Official
Associate, High Court,Mumbai

5.Union of India
Aykar Bhawan, Marine Lines
Mumbai 400 0020 ..Respondents

Mr.C.U.Singh with Ms. M.D'Souza i/b.
M/s.Sanjay Udeshi & Co. for Petitioner
Mr. Rui A Rodrigues with Mr. B.v. Phadnis for
Respondent No.1 & 2
Mr.M.D.Naik, A.G.P. for Respondent No.4
Mr. Kiran J. Khanpile for Respondent No.5

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 26TH APRIL, 2005.

JUDGMENT (PER F.I.REBELLO,J.)

. Rule. Heard forthwith.

2. The Petitioner is holding the post of Lecturer in General Engineering with Respondent No.2. He was appointed to the said post in the year 1992 by order dated 4th January, 1992 and continues to hold the said post. The Petitioner has approached this Court pursuant to the rejection by Respondent No.2 of the proposal put up by Respondent No.1 for de-reservation of the post.

3. The contentions raised in the present Petition are same and similar as were raised in Writ Petition No.3101 of 2004. The stand of Respondent No.1 University is similar. Respondent No.4 has also rejected the case of the Petitioner for similar contentions as set out in Writ Petition No. 3101 of 2004.

4. The only issue which is being dealt in this Petition is the rejection of the permission sought by Respondent No.1 from Respondent No.4 for de-reservation of the posts. For the reasons given by us whilst disposing of the Writ Petition No.3101 of 2004, the decision of Respondent No.4 is liable to be quashed and set aside. The judgment in the case of Mrs. Chandana M. Rege Vs. The Principal, Ramnarain Ruia College of Arts and Science, Mumbai & Ors. in writ Petition No.2676 of 2004 decided by us on 11th April, 2005 will also apply to the facts of

the present case.

5. Considering that the Petitioner has been holding the post for a long period, nonavailability of a reserved candidate and substantial compliance in so far as advertisement is concerned, the Petition ought to be allowed.

6. In the light of that Respondent No.2 is directed to regularise the Petitioner in the post of Lecturer from January, 1992. Considering that the Petitioner stands regularised from January, 1992. The Petitioner would be eligible for promotion to the next higher post on merits.

7. Respondent No.2 to issue orders accordingly and consider the case of Petitioner for promotion to the next higher post. Rule accordingly made absolute. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)